



PUBLIC NOTICE

Federal Communications Commission
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DA 07-100

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International Bureau Invites Comment on Proposal to Remove Certain Non-U.S.-Licensed Satellites From the Exclusion List for Global International Section 214 Authorization Purposes

IB Docket No. 07-23

Comment Date: (30 days after date of publication in the Federal Register).

Reply Comment Date: (45 days after date of publication in the Federal Register).

By this Public Notice, the International Bureau invites comment on a proposal to remove from the Section 214 Exclusion List those non-U.S.-licensed satellites that have been allowed to enter the U.S. market for satellite services pursuant to the procedure adopted in the *DISCO II Order*.¹ This action is taken pursuant to the International Bureau's authority to maintain the Section 214 Exclusion List, which was delegated to the Bureau by the Commission in the *1996 Streamlining Order*.²

In the *1996 Streamlining Order*, the Commission promulgated rules for carriers to apply for and receive a global facilities-based Section 214 authorization, which allow carriers to provide international services using any U.S.-licensed facilities, such as U.S.-licensed satellites, without filing a separate Section 214 application for each new facility.³ In that order, the Commission also established the Section 214 Exclusion List, which identifies particular facilities and/or particular countries that are not included in a global facilities-based Section 214 authorization, and, therefore, require a separate Section 214 authorization⁴ under Section 214 of the Communications Act, as amended.⁵

¹ In the *DISCO II Order*, the Commission set forth the public interest analysis applicable in evaluating applications to use non-U.S. licensed space stations in any service or frequency band to provide satellite service in the United States. This analysis considers the effect on competition in the United States, spectrum availability, eligibility and operating (e.g., technical) requirements, and national security, law enforcement, foreign policy, and trade concerns. See *Amendment of the Commission's Regulatory Policies to Allow Non-U.S.-Licensed Space Stations to Provide Domestic and International Satellite Service in the United States*, IB Docket No. 96-111, Report and Order, FCC 97-399, 12 FCC Rcd 24094, 24107-72, ¶¶ 30-182 (1997) (*DISCO II Order*).

² See *Streamlining the International Section 214 Authorization Process and Tariff Requirements*, IB Docket No. 95-118, Report and Order, FCC 96-79, 11 FCC Rcd 12884, 12893, ¶ 17 (1996) (*1996 Streamlining Order*). The Section 214 Exclusion List is subject to change by the Commission when the public interest requires. Before amending the list, the Commission will first issue a public notice giving affected parties the opportunity for comment and hearing on the proposed changes. *Id.* at 12893, ¶ 18. See also *Exclusion List for International Section 214 Authorizations*, at <http://www.fcc.gov/ib/pd/pf/telecomrules.html#exclusionlist>.

³ See *1996 Streamlining Order*, 11 FCC Rcd at 12888, ¶ 9.

⁴ See *id.* at 12892, ¶ 17. See also 214 Filing Guidelines at <http://www.fcc.gov/ib/pd/pf/214guide.html> (stating that, currently, the Section 214 Exclusion List prohibits authorized carriers from providing services to Cuba or accessing non-U.S.-licensed satellite systems that are not on the Permitted Space Station List, without complying with the separate filing requirements).

Initially, the Section 214 Exclusion List included all non-U.S.-licensed satellites. In 1999, however, the Commission as a matter of administrative convenience removed from the Section 214 Exclusion List those non-U.S.-licensed satellites that were on the Permitted Space Station List.⁶ The Permitted Space Station List includes all C- and Ku-band fixed-satellite service (FSS) satellites with which U.S. earth stations with routinely authorized technical parameters are permitted to communicate without additional Commission action, provided that those communications fall within the same technical parameters and conditions established in the earth stations' original licenses.⁷

The Commission established the Permitted Space Station List in the *DISCO II First Reconsideration Order* to simplify the *DISCO II* process for non-U.S.-licensed FSS satellites seeking to serve the U.S. market.⁸ The administrative convenience provided by using the Permitted Space Station List to determine which non-U.S.-licensed satellites would be included in a global facilities-based Section 214 authorization is limited, however, by the fact that the Permitted Space Station List includes only C- and Ku-band FSS satellites. Non-U.S.-licensed satellites that operate in other services such as MSS, or in other frequency bands such as the L-, Ka-, or V-bands, would not be added to the Permitted Space Station List, and, therefore, still require a separate Section 214 authorization specifically permitting access to those satellites.⁹

In view of these limitations, the International Bureau proposes to remove from the Section 214 Exclusion List any non-U.S.-licensed satellites that have been allowed to provide service to the United States under the *DISCO II* procedure. Under this proposal, the Permitted Space Station List would no longer be used for international Section 214 authorization purposes, and the proposal's adoption would allow service providers to access any authorized non-U.S.-licensed satellites through a global facilities-based Section 214 authorization. Note that only non-U.S.-licensed satellites that have been allowed to enter the U.S. market pursuant to the *DISCO II* procedure, which includes the public interest analysis, would qualify for removal from the Section 214 Exclusion List under this proposal.¹⁰

⁵ 47 U.S.C. § 214 (2006).

⁶ See *International Bureau Announces Process for Providing Service Under Global International Section 214 Authorizations Using Approved Non-U.S.-Licensed Satellite Systems Listed on the Permitted Space Station List*, Public Notice, DA 99-2844, 15 FCC Rcd 3689 (Int'l Bur. 1999).

⁷ *Amendment of the Commission's Regulatory Policies to Allow Non-U.S.-Licensed Space Stations to Provide Domestic and International Satellite Service in the United States*, IB Docket No. 96-111, First Order on Reconsideration, FCC 99-325, 15 FCC Rcd 7207, 7214-16, ¶¶ 16-20 (1999) (*DISCO II First Reconsideration Order*).

⁸ See *id.* In the *DISCO II First Reconsideration Order*, the Commission allowed the operators of in-orbit non-U.S.-licensed satellites offering FSS to request authority to provide space segment capacity service to licensed earth stations in the United States. Previously, under *DISCO II*, this request could be made only by an earth station operator. Further, once a non-U.S.-licensed FSS space station is permitted to access the U.S. market pursuant to a complete *DISCO II* analysis, it is placed on the Permitted Space Station List upon the applicant's request. The Bureau evaluates requests to place non-U.S.-licensed satellites on the Permitted Space Station List under the *DISCO II* framework. See *supra* footnote 1.

⁹ See *1996 Streamlining Order*, 11 FCC Rcd at 12892, ¶ 16; *1998 Biennial Regulatory Review – Review of International Common Carrier Regulations*, IB Docket No. 98-118, Notice of Proposed Rulemaking, FCC 98-149, 13 FCC Rcd 13713, 13723, ¶ 24 (1998) (stating that “facilities-based carriers desiring to serve a market or use a facility listed on the exclusion list must file a separate Section 214 application for that purpose”). See also 47 C.F.R. §§ 63.18(e)(3), 63.22(c).

¹⁰ See *supra* footnote 1. The *DISCO II* public interest analysis has proven to be comparable to the public interest analysis undertaken for Section 214 authorization of non-U.S.-licensed satellites. Compare with *1998 Biennial Regulatory Review – Review of International Common Carrier Regulations*, IB Docket No. 98-118, Report and Order, FCC 99-51, 14 FCC Rcd 4909, 4935, ¶ 63 (1999) (in 1999, the Commission declined to remove all non-U.S.-

Ex Parte Presentations. This is a permit-but-disclose proceeding. *Ex parte* presentations are permitted, provided they are disclosed as provided in Sections 1.1202, 1.1203, and 1.1206(a) of the Commission's Rules, 47 C.F.R. Sections 1.1202, 1.1203, and 1.1206(a).

Comments: Interested parties may file comments on or before 30 days after publication in the Federal Register, and reply comments on or before 45 days after publication in the Federal Register. All filings concerning matters referenced in the Public Notice should refer to **DA 07-100** and **IB Docket No. 07-23**. Comments may be filed using: (1) the Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- **Electronic Filers:** Comments may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/cgb/ecfs/> or the Federal eRulemaking Portal: <http://www.regulations.gov>. Filers should follow the instructions provided on the website for submitting comments.
 - For ECFS filers, filers must transmit one electronic copy of the comments for the docket number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to ecfs@fcc.gov, and include the following words in the body of the message, "get form." A sample form and directions will be sent in response.
- **Paper Filers:** Parties who choose to file by paper must file an original and four copies of each filing.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, SW, Washington DC 20554.
- One copy of each pleading must be delivered electronically, by e-mail or facsimile, or if delivered as a paper copy, by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service (according to the procedures set

licensed satellites from the Section 214 Exclusion List, in part because the record at that time was insufficient to conclude that the Section 214 inquiry is redundant with the analysis used for granting an earth station license to communicate with a non-U.S.-licensed satellite).

forth above for paper filings), to the Commission's duplicating contractor, Best Copy and Printing, Inc., at fcc@bcpiweb.com or (202) 488-5563 (facsimile).

Copies of comments, reply comments, and *ex partes* in this matter may be obtained from Best Copy and Printing, Inc., in person at 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, via telephone at (202) 488-5300, via facsimile at (202) 488-5563, or via e-mail at fcc@bcpiweb.com. The comments, reply comments and *ex partes* are also available for public inspection and copying during normal reference room hours at the following Commission office: FCC Reference Information Center, 445 12th Street, S.W., Room CY-A257, Washington, D.C. 20554. These documents are also available electronically through the Commission's ECFS, which may be accessed on the Commission's Internet website at <http://www.fcc.gov>.

People with Disabilities: Contact the FCC to request materials in accessible formats (braille, large print, electronic files, audio format, etc.) by e-mail at FCC504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (TTY).

For further information, contact Howard Griboff, (202) 418-0657, or Jennifer Gorny Balatan, (202) 418-1517, Policy Division, International Bureau.

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